

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TEXARKANA DIVISION**

SECIAL HEATH,

Plaintiff,

v.

AMBER WILSON, ET AL.,

Defendants.

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CIVIL ACTION NO. 5:22-CV-60-RWS-JBB

ORDER

Before the Court is Plaintiff Secial Heath’s civil action complaining of alleged deprivations of his constitutional rights. Docket No. 1. Plaintiff is a former inmate of the Bowie County Correctional center proceeding *pro se*.¹ *Id.* The case was referred to United States Magistrate Judge Boone Baxter in accordance with 28 U.S.C. § 636 after it was transferred from the Northern District of Texas. *See* Docket No. 4. The Magistrate Judge issued a Report recommending that Plaintiff’s complaint be dismissed without prejudice for failure to prosecute and failure to state a claim upon which relief may be granted. Docket No. 6. No objections have been filed.

In his complaint, Plaintiff alleges that Defendant Amber Wilson was “telling lies on me” and “holding [his] money.” *See* Docket No. 1. He also alleges that Defendants Mike Davidson and James Young were “stealing [his] money.” *Id.* The Magistrate Judge, however, found that Plaintiff’s allegations “wholly fail to set out sufficient facts that, take as true, state a claim for relief which is plausible on its face.” Docket No. 6 at 3. Further, Plaintiff “does not allege any violations

¹ Plaintiff has filed multiple lawsuits naming some of the same defendants, including two currently pending before this Court. *See* Case Nos. 5:22-cv-57, 5:22-cv-63. The Magistrate Judge also identified Case Nos. 2:23-cv-43 and 2:22-cv-257. *See* Docket No. 6 at 1.

of the Constitution or laws of the United States.” *Id.* Accordingly, the Magistrate Judge recommended that Plaintiff’s complaint be dismissed for failure to state a claim. *Id.*

A copy of the Report was sent to Plaintiff at his last known address but was returned as undeliverable. Docket No. 7. To date, Plaintiff has not advised the Court of his current mailing address and has also not contacted the Court since his case was transferred to the Eastern District in May of 2022. *See* Docket No. 6 at 3. The complaint form which Plaintiff signed contains a declaration saying, “I understand, if I am released or transferred, it is my responsibility to keep the court informed of my current mailing address and failure to do so may result in the dismissal of this lawsuit.” Docket No. 1 at 4. Accordingly, Plaintiff has also failed to prosecute his lawsuit by not advising the Court of his current mailing address.

Because no objections to the Magistrate Judge’s report have been received, Plaintiff is barred from *de novo* review by the District Judge of the Magistrate Judge’s proposed findings, conclusions and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203- RAS, 2021 WL 3287683, at *1 (E.D. Tex. July 31, 2021).

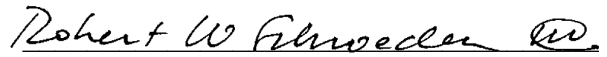
The Court has reviewed the pleadings in this case and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law.”). Accordingly, it is

ORDERED that the Report of the Magistrate Judge (Docket No. 6) is **ADOPTED** as the

opinion of the District Court. It is further

ORDERED that the above-captioned action is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim upon which relief may be granted and for failure to prosecute.

So ORDERED and SIGNED this 24th day of January, 2024.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE